

AMENDED IN SENATE MARCH 27, 2006

SENATE BILL

No. 1395

Introduced by Senator Ducheny

February 22, 2006

An act to add Section 21099 to the Public Resources Code, relating to environmental quality.

LEGISLATIVE COUNSEL'S DIGEST

SB 1395, as amended, Ducheny. Environmental quality: Native American sites.

(1) The California Environmental Quality Act (CEQA) requires a lead agency to evaluate whether an activity is a project subject to CEQA or comes within an exemption, and if the activity is determined to be a project to prepare, or cause to be prepared, and certify the completion of, an environmental impact report or to adopt a negative declaration, as required. *CEQA provides for specified exemptions from its provisions.*

~~This bill would require that a lead agency not certify or adopt an environmental impact report, negative declaration, or exemption for that determines that a project that alters or otherwise impacts is exempt from CEQA and may directly or indirectly affect a California Native American prehistoric, archeological, cultural, spiritual, or ceremonial place, as identified by the California Native American Heritage Commission, except as specified, before acting on the project, to consult with a Native American tribe on a specified contact list, regarding the potential direct or indirect affect on the place, and to provide the notice of exemption for the project to that tribe before that consultation and at least 45 days before acting on the project.~~

(2) Because this bill would impose new duties on local governments with respect to ~~certification or adoptions of environmental impact reports, negative declarations or exemptions for specified projects consulting with a Native American tribe and providing the tribe with a notice of exemption,~~ the bill would create a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 21099 is added to the Public Resources
2 Code, to read:
3 21099. ~~The lead agency shall not certify or adopt an~~
4 ~~environmental impact report, negative declaration, or exemption~~
5 ~~for a project that directly or indirectly alters or otherwise impacts~~
6 ~~a Native American prehistoric, archeological, cultural, spiritual,~~
7 ~~or ceremonial place, as identified by the California Native~~
8 ~~American Heritage Commission, pursuant to subdivision (a) of~~
9 ~~Section 5097.94, unless both of the following occur:~~
10 (a) ~~The lead agency preparing the environmental~~
11 ~~determination or exemption has engaged in government to~~
12 ~~government consultation with the Native American tribe or tribes~~
13 ~~identified by the California Native American Heritage~~
14 ~~Commission, for whom the identified sacred site holds cultural~~
15 ~~significance, regarding the potential direct and indirect impact on~~
16 ~~cultural property.~~
17 (b) ~~The Native American tribe or tribes identified by the~~
18 ~~California Native American Heritage Commission, for whom the~~
19 ~~identified sacred site holds cultural significance, have been given~~
20 ~~written notification of the determination or exemption not less~~
21 ~~than 60 days prior to the proposed certification or adoption of the~~
22 ~~environmental determination or exemption by the lead agency.~~

1 21099. *If a lead agency determines that a project is exempt*
2 *from this division and may directly or indirectly affect a*
3 *California Native American prehistoric, archeological, cultural,*
4 *spiritual, or ceremonial place, as described in Sections 5097.9*
5 *and 5097.993, the lead agency shall do both of the following*
6 *prior to acting on the project:*

7 (a) *Consult with a Native American tribe on the contact list*
8 *maintained by the California Native American Heritage*
9 *Commission to protect that California Native American*
10 *prehistoric, archeological, cultural, spiritual, or ceremonial*
11 *place, regarding the potential direct or indirect affect on that*
12 *place.*

13 (b) *Provide the notice of exemption for the project to that tribe*
14 *prior to consultation pursuant to subdivision (a) and at least 45*
15 *days prior to acting on the project.*

16 SEC. 2. No reimbursement is required by this act pursuant to
17 Section 6 of Article XIII B of the California Constitution because
18 a local agency or school district has the authority to levy service
19 charges, fees, or assessments sufficient to pay for the program or
20 level of service mandated by this act, within the meaning of
21 Section 17556 of the Government Code.